

§ 141.8

17 CFR Ch. I (4–1–02 Edition)

(3) If collection must be made in installments, the Commission must advise the paying agency of the amount or percentage of disposable pay to be collected in each installment;

(4) Advise the paying agency of the actions taken under 5 U.S.C. 5514(b) and provide the dates on which action was taken unless the employee has consented to salary offset in writing or signed a statement acknowledging that the Commission has complied with the procedures required by law. The written consent or acknowledgment must be sent to the paying agency;

(5) If the employee is in the process of separating, the Commission must submit its debt claim to the paying agency as provided in this part. The paying agency must certify any amounts already collected, notify the employee, and send a copy of the certification and notice of the employee's separation to the Commission. If the paying agency is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund or similar payments, it must certify to the agency responsible for making such payments the amount of the debt and that the provisions of 5 CFR 550.1108 have been followed; and

(6) If the employee has already separated and all payments due from the paying agency have been paid, the Commission may request, unless otherwise prohibited, that money payable to the employee from the Civil Service Retirement and Disability Fund or other similar funds be collected by administrative offset.

(b) *The Commission as the paying agency.* (1) Upon receipt of a properly certified debt claim from another agency, deductions will be scheduled to begin at the next established pay interval. The employee must receive written notice from the Commission that the Commission has received a certified debt claim from the creditor agency, the amount of the debt, the date salary offset will begin, and the amount of the deduction(s). The Commission shall not review the merits of the creditor agency's determination of the validity or the amount of the certified claim.

(2) If the employee transfers to another agency after the creditor agency has submitted its debt claim to the

Commission and before the debt is collected completely, the Commission must certify the total amount collected. One copy of the certification must be furnished to the employee. A copy must be furnished the creditor agency with notice of the employee's transfer.

§ 141.8 Procedures for salary offset.

(a) Deductions to liquidate an employee's debt will be by the method and in the amount stated in the Commission's notice of intention to offset as provided in § 141.4. Debts will be collected in one lump sum where possible. If the employee is financially unable to pay in one lump sum, collection must be made in installments.

(b) Debts will be collected by deduction at officially established pay intervals from an employee's current pay account unless alternative arrangements for repayment are made.

(c) Installment deductions will be made over a period not greater than the anticipated period of employment. The size of installment deductions must bear a reasonable relationship to the size of the debt and the employee's ability to pay. The deduction for the pay intervals for any period must not exceed 15% of disposable pay unless the employee has agreed in writing to a deduction of a greater amount.

(d) Unliquidated debts may be offset against any financial payment due to a separated employee including but not limited to final salary or leave payments in accordance with 31 U.S.C. 3716.

§ 141.9 Refunds.

(a) The Commission will refund promptly any amounts deducted to satisfy debts owed to the Commission when the debt is waived, found not owed to the Commission or when directed by an administrative or judicial order.

(b) The creditor agency will promptly return any amounts deducted by the Commission to satisfy debts owed to the creditor agency when the debt is waived, found not owed, or when directed by an administrative or judicial order.

Commodity Futures Trading Commission

§ 142.2

(c) Unless required by law, refunds under this subsection shall not bear interest.

§ 141.10 Statute of limitations.

If a debt has been outstanding for more than 10 years after the agency's right to collect the debt first accrued, the agency may not collect by salary offset unless facts material to the Government's right to collect were not known and could not reasonably have been known by the official or officials who were charged with the responsibility for discovery and collection of such debts.

§ 141.11 Non-waiver of rights.

An employee's involuntary payment of all or any part of a debt collected under these regulations will not be construed as a waiver of any rights that employee may have under 5 U.S.C. 5514 or any other provision of contract or law unless there are statutes or contract(s) to the contrary.

§ 141.12 Interest, penalties, and administrative costs.

Charges may be assessed for interest, penalties, and administrative costs in accordance with the Federal Claims Collection Standards, 4 CFR 102.13.

PART 142—INDEMNIFICATION OF CFTC EMPLOYEES

Sec.

142.1 Purpose and scope.

142.2 Policy.

AUTHORITY: 7 U.S.C. 4a(j).

SOURCE: 54 FR 25234, June 14, 1989, unless otherwise noted.

§ 142.1 Purpose and scope.

This part sets forth the policy and procedure with respect to the indemnification of Commission employees who are sued in their individual capacities and suffer an adverse judgment as a result of conduct taken within the scope of employment. (For purposes of this part the term Commission employees includes all present and former Commissioners and employees of the Commission). This part is intended to provide indemnification for adverse judgments for constitutional and fed-

eral statutory torts excepted from the Federal Tort Claims Act exclusive remedy provision 28 U.S.C. 2679(b) (as amended by the Federal Employees Liability Reform and Tort Compensation Act of 1988 (Pub. L. 100-694)). In any lawsuit which is filed against the employee alleging a common law tort occurring within the scope of employment, the United States may be substituted for the individual employee and any liability which may be found will be assessed against the government, pursuant to the Federal Employees Liability Reform and Tort Compensation Act of 1988.

§ 142.2 Policy.

(a) The Commission may indemnify its employees by the payment of available funds, in whole, or in part, for any verdict, judgment or other monetary award which is rendered against any employee, provided that the conduct giving rise to the verdict, judgment or award was taken within the scope of his or her employment with the Commission and that such indemnification is in the interest of the United States, as determined by the Commission.

(b) The Commission may settle or compromise a personal damage claim against its employee by the payment of available funds, at any time, provided the alleged conduct giving rise to the personal damage claim was taken within the scope of employment and that such settlement is in the interest of the United States as determined by the Commission in its discretion.

(c) Absent exceptional circumstances, as determined by the Commission, the Commission will not entertain a request either to agree to indemnify or to settle a personal damage claim before entry of an adverse verdict, judgment or monetary award.

(d) When an employee of the Commission becomes aware that an action may be or has been filed against the employee in his or her individual capacity as a result of conduct taken within the scope of his or her employment, the employee should immediately notify the Commission's Office of General Counsel that such an action is pending or threatened.